IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

JULLIE A. TORRES, Individually and On Behalf of Others Similarly Situated,

Plaintiff,

V. CIV. ACTION NO. SA-11-CA-0165-FB

ALAMO HEALTHCARE SYSTEMS
OF TEXAS, L.P., ROBERT LOWRY,
M.D., and THOMAS D. PARTALAS,
Individually and in their Official
Capacity,

Defendants.

MOTION TO RECONSIDER ORDER OF DISMISSAL WITHOUT PREJUDICE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW COMES JULLIE A. TORRES, Plaintiff in the above-style and numbered cause, and files this Motion to Reconsider Order of Dismissal Without Prejudice, and in support hereof, would respectfully show this Court the following:

- 1. On August 15, 2011, this Court issued its Order of Dismissal with regard to the above-styled and numbered cause. The Order of Dismissal was based upon the parties' failure to timely submit an Agreed Scheduling Order on or before August 12, 2011.
- 2. Plaintiff now asks this Court to reconsider its Order of Dismissal based upon the fact that the parties' failure to submit an Agreed Scheduling Order was simply due to a breakdown in communication among counsel.
- 3. On or about August 3, 2011, a Proposed Scheduling Order was sent by counsel for Plaintiff to counsel for Defendants. See Exhibit "A," E-mail Correspondence from

Office of Glenn D. Levy to Donald E. Wilson, attached hereto and incorporated by

reference herein. On August 12, 2011, counsel for Defendants agreed to the proposed

Scheduling Order. See Exhibit "B," Correspondence of 8/12/2011 from Donald E.

Wilson to Glenn D. Levy.

4. Notwithstanding the agreement of the parties on a proposed Scheduling Order, a

copy of which is attached hereto as Exhibit "C," the parties inadvertently failed to file

this Agreed Scheduling Order. Plaintiff now respectfully asks this Court to reinstate its

Order of Dismissal based upon the fact that the failure to comply with this Court's prior

order to submit a proposed scheduling order was inadvertent and unintentional. Rather,

the parties conferred in good faith on the proposed Agreed Scheduling Order, a copy of

which is attached.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff asks this Court to

reconsider its prior Order of Dismissal, reinstate the above-styled and numbered cause,

and adopt the proposed Agreed Scheduling Order as controlling the disposition of this

case.

Respectfully submitted,

By: /s/ Glenn D. Levy

GLENN D. LEVY

State Bar No. 12264925

906 West Basse Road, Suite 100

San Antonio, Texas 78212

Telephone: (210) 822-5666

Facsimile: (210) 822-5650

ATTORNEY FOR PLAINTIFF,

JULLIE A. TORRES

CERTIFICATE OF CONFERENCE

On August 16, 2011, counsel for Plaintiff conferred with counsel for Defendants. As set forth in the body of this Motion, the parties previously agreed on a proposed Scheduling Order. Furthermore, Plaintiff's counsel has since conferred with Defendants' counsel via telephonic conference, and both have agreed that this Motion is unopposed. Accordingly, this matter is submitted to the Court for consideration.

/s/ Glenn D. Levy GLENN D. LEVY

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Federal Rules of Civil Procedure, a copy of the Plaintiff's Motion to Reconsider Order of Dismissal Without Prejudice was sent via facsimile and email on this 16th day of August 2011.

Mr. Donald E. Wilson LAW OFFICES OF DONALD E. WILSON 607 Urban Loop San Antonio, Texas 78204

> /s/ Glenn D. Levy GLENN D. LEVY